

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2002 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN and  
MR.JUSTICE J.M.PANCHAL

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MANHOHAR R LODHIA

Versus

UNION OF INDIA

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Appearance:

MR RS DINKAR for Petitioner  
MR JAYANT PATEL for Respondent No. 1

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CORAM : MR.JUSTICE K.G.BALAKRISHNAN and  
MR.JUSTICE J.M.PANCHAL

Date of decision: 30/04/98

ORAL JUDGEMENT (Per K.G.Balakrishnan,J.)

1. Rule. Mr.Jayant N.Patel, Standing Counsel for the respondents, waives service thereof, on behalf of the respondents.

2. The petitioner imported 4731 pieces of Integrated Gold Plated Bezels from Hongkong. The goods were seized by the respondent authorities alleging that they are consumer goods and that they are included in the list of banned items for import. So, a show cause notice was issued to the petitioner as to why the goods shall not be confiscated. The petitioner submitted his reply to the said show cause notice. Respondent no.2 held that the goods are not freely importable and ordered confiscation and penalty of Rs.2 lakhs was also imposed on the petitioner. The petitioner filed an appeal before the CEGAT challenging the order passed by respondent no.2.

The Tribunal, by its order dated 28-7-1997 held that Integrated gold Plated Bazels are freely importable goods and the appeal filed by the petitioner was allowed and the order passed by the 2nd respondent was quashed. Respondent no.2 filed a Reference Application before the Tribunal praying for referring the questions of law to the High Court, but that application was rejected by the Tribunal. The petitioner now submits that the goods are still with the respondent-authoriteis and they are not being released.

3. We heard Mr.R.S.Dinkar, 1d.Counsel for the petitione and Mr.Jayant N.Patel, 1d.Standing Counsel for the respondents. The Counsel for the petitioner submitted that, as the order passed by the Tribunal has become final and conclusive, the petitioner is entitled to get released the goods. The Counsel for the respondents submitted that the respondents want to challenge the order passed by the Tribunal before appropriate forum and therefore, the goods may not be released at this stage and if the goods are released, the petitioner may be asked to furnish security for the duties payable by him.

4. The petitioner has succeeded in the appeal. No order either staying or modifying the order of the Tribunal has been produced before us. We are, therefore, inclined to order release of goods to the petitioner. Having regard to the submission made by the respondents' counsel, the petitioner shall execute a bond and an undertaking to the effect that the petitioner shall pay duty and/or penalty that may be payable by him, in case the order passed by the Tribunal is modified or reversed making the petitioner liable to pay the duty and/or penalty. The petitioner shall execute the bond and the undertaking in the prescribed form within one week from today and on execution of the same the 3rd respondent shall release the goods forthwith to the petitioner. It is clarified that the petitioner need not give any surety to the respondents. Rule the above extent is made absolute.

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